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Brian Williams, Troy Ternes, Alexis
Lozano, Jennifer Nash, Duane Wilson,
Joel Quiroz, Perry Russell, Jacques Graham,
Shanon Ennis-Wright, Julie Matousek, Brian
Sandoval, Adam Laxalt, Barbara Cegavske,
Francis Moka, Alfonso Alvarez, and Monique
Hubbard-Pickett*

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

FRANK PECK,

Plaintiff,

v.

STATE OF NEVADA, ex rel. Nevada Department
of Correction, et al.; PRISON
COMMISSIONERS; GOVERNOR BRIAN
SANDOVAL; SECRETARY OF STATE
BARBARA CEGAVSKI; ATTORNEY GENERAL
ADAM LAXALT; DIRECTOR OF PRISONS
JAMES DZURENDA; WARDEN BRIAN
WILLIAMS, HDSP; ASSOCIATE WARDEN
JENNIFER NASH; ASSOCIATE WARDEN
PERRY RUSSELL; ACTING ASSOCIATE
WARDEN T. TERNES; CASE WORKER ENNIS
WRIGHT and LAW LIBRARY SUPERVISOR
JAQUES GRAHAM; FOOD SUPERVISER
MANAGER DWAIN WILSON; ATTORNEY
GENERAL FRANK A. TODDRE, II, DISTRICT
COURT JUDGE JERRY A WIESE; SGT.
ALEXIS LOZANO; SGT. JULIE MATOUSEK;
SGT. DUGAN; OFFICER JOEL QUEROZ, sued
in the Individual and Official capacities,

Defendants.

Case No. 2:18-cv-00237-APG-VCF

**DEFENDANTS' MOTION FOR
EXTENSION OF TIME TO
RESPOND TO PLAINTIFF'S
MOTION FOR PRELIMINARY
INJUNCTION AND
RESTRAINING ORDER
(ECF NO. 68 AND 69)**

Defendants James Dzurenda, Brian Williams, Troy Ternes, Alexis Lozano, Jennifer Nash, Duane Wilson, Joel Quiroz, Perry Russell, Jacques Graham, Shanon Ennis-Wright, Julie Matousek, Brian Sandoval, Adam Laxalt, Barbara Cegavske, Francis Moka, Alfonso Alvarez, and Monique Hubbard-Pickett, by and through counsel, Aaron D. Ford, Nevada Attorney General, and Jared M. Frost, Senior Deputy Attorney General, hereby request an additional thirty-three (33) days to respond to Plaintiff's "Motion for Preliminary Injunction and Restraining Order" filed April 11, 2019, and docketed at ECF No. 68 and ECF No. 69. Defendants' request is made and based on the following memorandum of points and authorities, the attached Declaration of Counsel, the pleadings and papers on file, and any other evidence the Court deems appropriate to consider.

MEMORANDUM OF POINTS AND AUTHORITIES

I. BACKGROUND

This is a prisoner civil rights matter. ECF No. 7.

On July 5, 2018, the Court screened Plaintiff's Complaint. ECF No. 6. Pursuant to the Screening Order, Plaintiff was permitted to proceed on numerous claims. *See id.*

On December 7, 2018, the parties participated in a mediation conference at which no resolution was reached. ECF No. 22.

On January 24, 2019, the Attorney General filed an Acceptance of Service for Defendants James Dzurenda, Brian Williams, Troy Ternes, Alexis Lozano, Jennifer Nash, Duane Wilson, Joel Quiroz, Perry Russell, Jacques Graham, Shanon Ennis-Wright, and Julie Matousek.

On January 31, 2019, Plaintiff filed an Amended Complaint. ECF No. 40.

On April 1, 2019, the Court screened Plaintiff's Amended Complaint pursuant to Defendants' request. ECF No. 65. The Court incorporated its previous findings concerning claims presented in the original Complaint and allowed Plaintiff to proceed on additional claims. *Id.* at 3-5.

On April 11, 2019, Plaintiff filed his "Motion for Preliminary Injunction and Restraining Order." ECF No. 68; ECF No. 69.

1 On April 15, 2019, Defendants filed a Motion for Case Management Conference due
2 to the complexity of the case and Plaintiff's practice and history of filing frivolous,
3 unsupported, or unnecessary motions. ECF No. 70.

4 On April 18, 2019, the Attorney General filed an Acceptance of Service for Francis
5 Moka, Alfonso Alvarez, and Monique Hubbard-Pickett. ECF No. 72.

6 On April 24, 2019, the Court scheduled a hearing on Defendants' Motion for Case
7 Management Conference for May 7, 2019. ECF No. 74.

8 This motion for an extension of time to respond to Plaintiff's April 2019 preliminary
9 injunction motion follows.

10 **II. APPLICABLE LAW**

11 Pursuant to Federal Rule of Civil Procedure 6(b)(1)(A), the Court may extend the
12 time to perform an act within a specified time for good cause shown.

13 **III. ARGUMENT**

14 Defendants submit that good cause exists to extend the time to respond to Plaintiff's
15 April 2019 preliminary injunction motion. Defendants' response is currently due April 25,
16 2019. Since Plaintiff filed his motion on April 11, the undersigned has reviewed the motion
17 and requested information and records from prison staff needed to complete a response.
18 Exhibit 1 (Declaration of Counsel). However, the undersigned has been unable to complete
19 a response due to his responsibilities to meet deadlines in this and other cases. *See id.*
20 Further, the Court recently scheduled a hearing on Defendants' motion for a case
21 management conference, through which Defendants seek a protective order regarding

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1 Plaintiff's motion practice. *See* ECF No. 70 at 7. Defendants therefore request an extension
2 of thirty-three (33) days, or until May 28, 2019, to file a response to Plaintiff's motion.

3 DATED this 25th day of April, 2019.

4 AARON D. FORD
5 Attorney General

6 By: /s/ Jared M. Frost
7 JARED M. FROST (Bar No. 11132)
8 Senior Deputy Attorney General

9 *Attorneys for Defendants*

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12 **ORDER**

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14 **IT IS SO ORDERED.** Defendants shall have until May 28, 2019, to file a Response to
15 Plaintiff's "Motion for Preliminary Injunction and Restraining Order" (ECF No. 68; ECF
16 No. 69).

17 Dated: April 26, 2019.

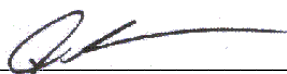
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21 UNITED STATES DISTRICT JUDGE
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EXHIBIT 1

Declaration of Counsel

EXHIBIT 1

AARON D. FORD
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Case No. 2:18-cv-00237-APG-VCF

**DECLARATION OF
COUNSEL**

1 I, JARED M. FROST, hereby declare, based on personal knowledge and/or information
2 and belief, that the following assertions are true:

3 1. I am a Senior Deputy Attorney General employed by the Nevada Attorney
4 General in the Litigation Division, and I make this declaration in support of Defendants'
5 motion to extend the time in which to file a Response to Plaintiff's "Motion for Preliminary
6 Injunction and Restraining Order" filed April 11, 2019, and docketed at ECF No. 68 and
7 ECF No. 69.

8 2. Since Plaintiff filed his motion on April 11, 2019, I have reviewed the motion
9 and requested information and records from prison staff needed to complete a response.
10 However, I have been unable to complete the response due to my responsibilities to meet
11 deadlines in this and other cases.

12 3. My responsibilities to meet deadlines during the past two weeks include:
13 *Mizzoni v. State of Nevada*, Case No. 2:17-cv-01482 (opposition to plaintiff's summary
14 judgment motion filed 04/25/19, reply regarding defendants' motion for summary judgment
15 filed 04/15/19); *Carley v. Gentry et al.*, Case No. 2:17-cv-02670 (reply regarding defendants'
16 motion for summary judgment filed 04/24/19); *Mitchell v. State of Nevada*, Case No. 2:17-cv-
17 00686 (substantive response to motion to extend time filed 04/24/19); *Jackson v. State of*
18 *Nevada et al.*, Case No. 2:16-cv-00995 (reply regarding defendants' motion for summary
19 judgment filed 04/23/19); *Johnson v. Lewis*, Case No. 2:17-cv-01668 (response to motion to
20 consolidate cases filed 04/18/19); and *Peck v. State of Nevada et al.*, Case No. 2:18-cv-00237
21 (response to objection to order filed 04/17/19, motion for case management conference filed
22 04/15/19).

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1 4. This request is made in good faith and not for the purpose of delay.

2 Pursuant to 28 U.S.C. section 1746 Declarant certifies, under penalty of perjury, that
3 the foregoing is true and correct.

4 DATED this 25th day of April, 2019.

5 AARON D. FORD
6 Attorney General

7 By: /s/ Jared M. Frost
8 JARED M. FROST (Bar No. 11132)
 Senior Deputy Attorney General

9 *Attorneys for Defendants*